

Date: April 13, 2001
To: Conservation District Procedure Manual Holders
From: Cheryl Witt, Project Officer
Subject: Revision 48 – Section 360, Water Quality Grants Program
Action: See Instructions to Manual Holders Below

The purpose of this Procedure Manual revision is to strengthen Commission policy on the use of district cost share agreements with cooperators.

Written agreements are now required to be used by districts that provide cost share to cooperators.

Districts are encouraged to use the Water Quality Grants Cost-Sharing Application and Implementation Agreement, Exhibit 360 WQ-Aiii. This form incorporates a worksheet for each practice on which cooperator contributions and cost-sharing from other sources is clearly shown. The Commission form serves several purposes: 1) an application for cost share from the cooperator to the district, 2) a documentation of district's approval of the application, 3) a cooperator's written agreement to maintain the practice(s), and 4) a certification of completion by the district after the practice is installed.

Districts may use the Commission Cost-Sharing Application and Implementation Agreement, modify it based on local conditions, or use its own comparable form.

As we conduct District Operations Reviews across the state, we will be spot checking various Commission grant files for complete, up-to-date cost share agreements.

Instructions to Conservation District Procedure Manual Holders: this is the forty-eighth numbered revision to the Conservation District Procedure Manual. If you do not have an updated manual, please contact your Field Operations Manager.

1. Insert this purple numbered revision cover memo behind the tab "Revisions" and in front of all other revision cover memos.

2. Fill in the blanks after line 47 on the Index of Manual Revisions as follows:

#	Sec	Issued	Subject	Date	Who
48	360	4-13-01	WQ Grants Program	Date Inserted	Your Initials

3. Remove and recycle Section 360 WQ, pages 7 & 8

4. Insert the new Section 360 WQ, pages 7 & 8

operator and the chair of the conservation district. Districts may, at their discretion, require that BMPs contained in these Plans be completely designed before committing cost-share funds to any dairy operator.

Cost-shared BMPs are limited primarily to those that are required in the Dairy Nutrient Management Plan for the protection of water quality. If the district determines that BMPs in a Dairy Nutrient Management Plan are no longer sufficient to protect water quality, it may authorize cost-sharing to upgrade or replace these BMPs, as long as the Plan is also updated.

BMPs not in a DNMP may be cost-shared by the district using Implementation or Competitive grants, if they are considered a high priority by the board.

Cost-sharing budget Each dairy nutrient management grant contract has funds allocated to cost-sharing. These funds may not be used for any other purpose, and may not be transferred to another budget object.

Cost-share rates applicable to dairies only The maximum cost-share rate for dairies using Commission grant funds is 75 percent. No more than 75 percent of the total cost of the practices installed may be provided by the district, from all sources, when using Commission grant funds. In other words, the dairy operator is required to provide at least 25 percent of the cost.

Cost-sharing limit applicable to dairies only The dollar limit for cost-sharing under Commission Dairy Nutrient Management Grants is \$50,000 per operation, per grant.

Cost-share appeals for dairies If a district believes there is good reason to cost-share above the \$50,000 limit or at a rate higher than 75 percent, it may file an appeal as shown on pages 8 and 9.

**Cost-sharing
policy applicable to
all Water Quality
and Dairy Nutrient
Management
grants**

Districts are required to use a written cost share agreement, and are encouraged to use the **Water Quality Grants Cost-Sharing Application and Implementation Agreement** attached as Exhibit 360 WQ – Aiii. This form incorporates a worksheet for each practice on which landowner contributions and cost-sharing from other sources is clearly shown. As with other forms in this section, a District may use these forms as is, modify them based on local conditions, or use its own comparable forms.

Methods of payment A district may make cost-share payments directly to a cooperator on a reimbursement basis, or by providing the material and labor necessary for the project and then billing the cooperator for his share of the cost.

IRS Form 1099 If a district uses the reimbursement method, it is no longer required to provide IRS Form 1099 to cooperators who received cost-share payments.

Compliance checks Districts may use grant funds to monitor cost-shared projects for compliance with the goals of the grant. Monitoring may take the form of physical inspections, spot checks, and may include water quality monitoring or screening if appropriate. Provisions for monitoring compliance should be included in every cost-sharing agreement the district enters into with its cooperators.

Retroactive payments prohibited No retroactive cost-share payments shall be made under the Commission's cost-sharing program. For purposes of this policy, the effective date of a Cost-sharing Application and Implementation Agreement is the date the District chair signs it, not the date the cooperator signs it. The term "retroactive" refers to any time prior to the date of the chair's signature.

Cooperator's share The Commission will accept the value of in-kind labor from cooperators based on the established rate of \$18.00 per hour. The Commission will not accept the value of land taken out of production in the course of installation of cost-shared BMP's, or loss of production value.

Conservation easements For landowners with conservation easements, the value of the easement may make up the required landowner match. This applies to any BMPs installed within the easements.

Eligible BMPs All BMPs meeting NRCS standards, or alternative practice designs approved by a licensed professional engineer, are eligible for cost-sharing. Emphasis will be placed on BMPs involving structures and facilities, including bioengineering practices.

Maintenance or operation of existing BMPs is not eligible for funding under this program. However, cost-sharing may be used to repair existing BMPs damaged or destroyed by acts of nature. An "act of nature" is defined as an occurrence, especially a disaster, that is due entirely to the forces of nature and that could not reasonably have been prevented. Districts considering the use of cost-share dollars for repair of existing BMPs destroyed by an act of nature should consider the cost-effectiveness of the repair, whether the design criteria is adequate, and if the public benefit outweighs private gain.

Unique situations If a District believes that cost-sharing a BMP in a unique situation will have a demonstrable, positive water quality impact, they may request cost-sharing approval from the Commission on a case-by-case basis. "A unique situation" is one that is outside the policy established and contained in Section 360 of this Procedures Manual and in the General Terms and Conditions attached to the Commission's grant contracts. The approval process for unique situations is the same as for cost-share appeals shown below.

Cost-share appeals If a district believes there is good reason to request a variance in either the cost-share rate or dollar limit for a Water Quality Program grant (Implementation or Competitive), or a Dairy Nutrient Management Program grant, it may submit an appeal to the Commission stating the nature of the hardship or special circumstance, and the cost-share percentage or maximum amount of cost-share desired.

Appeals of the Commission's cost-sharing policy must be in writing, signed by the district chair or designee, and sent to the Commission grants staff. Also, the appealing district must send a representative, authorized to speak on behalf of the district, to the Commission meeting at which the appeal will be heard. Commission members will consider variance requests on a case-by-case basis, and will respond to requests within two working days following the meetings. Appeals should be received in the Commission's headquarters office at least 15 days prior to